

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
C&W Enterprises, Inc. d/b/a Sterling Cable)	File No. EB-02-TS-615
)	
Operator of Wireless Cable System in:)	
)	
San Angelo, Texas)	
)	
Request for Waiver of Section 11.11(a) of the)	
Commission's Rules)	

ORDER

Adopted: October 21, 2003**Released: October 23, 2003**

By the Chief, Spectrum Enforcement Division, Enforcement Bureau:

1. In this *Order*, we grant C&W Enterprises, Inc. d/b/a Sterling Cable ("Sterling") a temporary waiver of Section 11.11(a) of the Commission's Rules ("Rules") for the above-captioned wireless cable television system. Section 11.11(a) requires wireless cable systems serving fewer than 5,000 subscribers from a single transmission site to either provide national level Emergency Alert System ("EAS") messages on all programmed channels or install EAS equipment and provide a video interrupt and audio alert on all programmed channels and EAS audio and video messages on at least one programmed channel by October 1, 2002.¹

2. The Cable Act of 1992 added new Section 624(g) to the Communications Act of 1934 ("Act"), which requires that cable systems be capable of providing EAS alerts to their subscribers.² In 1994, the Commission adopted rules requiring cable systems to participate in EAS.³ In 1997, the Commission amended the EAS rules to provide financial relief for small cable systems.⁴ The Commission declined to exempt small cable systems from the EAS requirements, concluding that such an exemption would be inconsistent with the statutory mandate of Section 624(g).⁵ However, the

¹ 47 C.F.R. § 11.11(a).

² Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, § 16(b), 106 Stat. 1460, 1490 (1992). Section 624(g) provides that "each cable operator shall comply with such standards as the Commission shall prescribe to ensure that viewers of video programming on cable systems are afforded the same emergency information as is afforded by the emergency broadcasting system pursuant to Commission regulations" 47 U.S.C. § 544(g).

³ *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System, Report and Order and Further Notice of Proposed Rule Making*, FO Docket Nos. 91-171/91-301, 10 FCC Rcd 1786 (1994) ("First Report and Order"), reconsideration granted in part, denied in part, 10 FCC Rcd 11494 (1995).

⁴ *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System, Second Report and Order*, FO Docket Nos. 91-171/91-301, 12 FCC Rcd 15503 (1997) ("Second Report and Order").

⁵ *Id.* at 15512-13.

Commission extended the deadline for cable systems serving fewer than 10,000 subscribers to begin complying with the EAS rules to October 1, 2002, and provided cable systems serving fewer than 5,000 subscribers the option of either providing national level EAS messages on all programmed channels or installing EAS equipment and providing a video interrupt and audio alert on all programmed channels and EAS audio and video messages on at least one programmed channel.⁶

3. On September 30, 2002, Sterling filed an informational notification of its status in complying with Section 11.11(a) for the captioned wireless cable system. In the notification, Sterling stated that it placed a purchaser order for EAS equipment on September 19, 2002 for its small wireless cable system which serves approximately 3,500 subscribers. Sterling further stated that it expected the EAS equipment to be delivered by October 18, 2002 and to immediately install the equipment. Sterling submitted that after installation of EAS equipment at its wireless cable system is completed, it shall promptly notify the Commission that its EAS system is operational. On July 16, 2003, Sterling filed a follow-up informational notification. Sterling asserts that after rectifying technical problems, its EAS system is fully operational and in compliance with Section 11.11(a).

4. Based upon our review of the information submitted by Sterling, we conclude that Sterling's notification should be treated as a request for a temporary waiver of Section 11.11(a). We also conclude that a temporary waiver of Section 11.11(a) for the captioned wireless cable system is warranted.⁷

5. Accordingly, **IT IS ORDERED** that, pursuant to Sections 0.111, 0.204(b) and 0.311 of the Rules,⁸ C&W Enterprises, Inc. d/b/a Sterling Cable **IS GRANTED** a waiver of Section 11.11(a) of the Rules until July 16, 2003 for the captioned wireless cable television system.

6. **IT IS FURTHER ORDERED** that C&W Enterprises, Inc. d/b/a Sterling Cable place a copy of this waiver in its system file.

7. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by Certified Mail Return Receipt Requested to counsel for C&W Enterprises, Inc. d/b/a Sterling Cable, Suzanne S. Goodwyn, Esq., 1661 Hunting Creek Drive, Alexandria Virginia, 22314.

FEDERAL COMMUNICATIONS COMMISSION

Joseph P. Casey
Chief, Spectrum Enforcement Division
Enforcement Bureau

⁶ *Id.* at 15516-15518.

⁷ The waiver will extend from October 1, 2002, until July 16, 2003. We also clarify that the waiver we are granting also encompasses the EAS testing and monitoring requirements.

⁸ 47 C.F.R. §§ 0.111, 0.204(b) and 0.311.